

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**

Alexandria Division

UNITED STATES OF AMERICA,

Plaintiff,

v.

GEORGE A. NADER,

Defendant.

Case No. 1:18-mj-00196-TCB

MOTION FOR DEFENDANT TO HAVE ACCESS TO HIS LEGAL DEFENSE TEAM

Defendant George Aref Nader, by and through the undersigned, respectfully requests that the Court instruct the United States Marshals Service to permit Mr. Nader to meet with counsel of choice in the Alexandria Detention Center, where he is presently in pretrial detention. Counsel has been encouraged by the United States Marshals Service and the United States Attorney's Office for the Eastern District of Virginia to seek this requested relief from the Court after first seeking it from the Marshals Service and the United States Attorney's Office.

A. Discussions with the United States Marshals Service and the United States Attorney's Office for the Eastern District of Virginia

Counsel for Mr. Nader has engaged in cordial and productive conversations with the United States Marshals regarding this issue and is grateful for its efforts to ensure Mr. Nader's security. Our understanding, based on those conversations, is that Mr. Nader's case has been deemed a "high profile" case by the Marshals Service, which the US Marshals Service has informed us means that the only individuals who are allowed to visit Mr. Nader in the Alexandria Detention Center must be on a preapproved list transmitted from the United States Marshals Service to the

Alexandria Detention Center. In “high profile” cases, the Marshals Service adheres to a strict protocol of allowing only counsel of record and certain other pre-approved attorneys into the Alexandria Detention Center.

Importantly, the Marshals Service kindly informed counsel that—while the Marshals Service cannot make exceptions to protocol, to the exclusion of potential experts and consultants (as well as other attorneys on Mr. Nader’s legal defense team)—the Marshals Service will agree to take direction from the Court on this issue. Counsel for the Government informed us that the Government will defer to the Court on this issue.

Counsel appreciates and respects the importance of security protocols and has collaborated well with the Marshals Service on the best ways to abide by those protocols, while at the same time attempting to protect and vindicate Mr. Nader’s Sixth Amendment right to counsel. In collaborating with the Marshals Service and requesting additions to the list so that Mr. Nader can meet and confer with his counsel of choice on his defense strategy (which carries a fifteen-year mandatory minimum sentence), the Marshals Service has noted that it cannot allow access to a notary public who has needed to bear witness to Mr. Nader’s signature of a power-of-attorney document and indicated that only attorneys will be permitted to visit Mr. Nader, to the exclusion of consultants, expert witnesses, or anyone on his defense team without a bar card. And, to clarify, counsel does not seek to have *all* of the individuals on the list simultaneously visit Mr. Nader at the Detention Center.

B. The Requested Relief

In view of the foregoing, undersigned counsel respectfully asks that the Court permit Mr. Nader to have access to confer with all members of his legal defense team, which consists of: (i) attorneys and other professionals employed by the law firms of Latham & Watkins LLP and

KaiserDillon PLLC; and (ii) experts and consultants engaged by Mr. Nader's counsel in connection with Mr. Nader's legal defense (collectively, the "Legal Defense Team"). Defense counsel proposes to submit to the United States Marshals Service a list of the individuals who comprise the Legal Defense Team, who would be authorized to meet with Mr. Nader at the Alexandria Detention Center.

To be sure, counsel has appreciated the professionalism and courteousness of the Marshals Service. Although counsel and the Marshals Service disagree about whether Mr. Nader should have access to his full defense team rather than only counsel of record, this disagreement is procedural and not acrimonious in any way. The Marshals Service has simply informed counsel that it has a protocol and politely encouraged it to seek from the Court the relief that Mr. Nader now requests. This will allow for the orderly administration of individuals who have access to Mr. Nader while ensuring Mr. Nader's Sixth Amendment right to counsel. Counsel does not anticipate needing to amend this list more than a handful of times so the burden on the Marshals Service will be minimal, and—for purposes of legal defense and strategy—no one is better-positioned to know who should and should not have access to Mr. Nader than his chosen counsel.

Furthermore, to the extent the Marshals Service has a security concern with any individual on the list, counsel requests that the Marshals Service raise such concern with counsel within 24 hours of receiving the list, at which point counsel and the Marshals Service will continue to collaborate about reconciling security concerns with Mr. Nader's Sixth Amendment right to counsel. A proposed order is attached to this motion that clearly states the requested relief.

Dated: June 18, 2019

Respectfully submitted,

LATHAM & WATKINS LLP

/s/ Clayton D. LaForge

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*Attorney for Defendant
George Aref Nader*

CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of June, 2019, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

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